

### **REMARKS**

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-2, 4-7, 9-36 and 38-39 are presently active in this case. The present Amendment amends independent Claims 1, 6, 11, 18, 25 and 29 without introducing any new matter.

Claims 1, 2, 6, 7, 15, 22, 25-27, 29-31, 35 and 38-39 were rejected under 35 U.S.C. §103(a) as unpatentable over Stefik et al. (U.S. Patent No. 6,233,684, herein "Stefik") in view of Hartrick et al. (U.S. Patent No. 5,532,920, herein "Hartrick") and Perlman (U.S. Patent No. 6,363,480). Claims 4-5, 9-10, 16-17, 23-24, 28 and 32 were rejected under 35 U.S.C. §103(a) as unpatentable over Stefik, Hartrick and Perlman in further view of Chou et al. (U.S. Patent No. 5,337,357, herein "Chou"). Claims 11-14 and 18-21 were rejected under 35 U.S.C. §103(a) as unpatentable over Stefik and Hartrick.

Claim 1 is amended to recite "requesting data including data intended to be printed and a program used by an apparatus" and to recite "a processing part configured to update a version of the program used by the image forming apparatus." These features find non-limiting support in the disclosure as originally filed, for example from page 21, line 24, to page 22, line 10 and in corresponding Figure 6. Independent Claims 6, 11, 18, 25 and 29 are amended to recite similar features.

In light of the amendments to the independent claims, Applicant respectfully requests reconsideration of the rejections of Claims 1-2, 4-7, 9-36 and 38-39 under 35 U.S.C. §103(a), and traverses the rejections, as discussed next.

Briefly recapitulating, Claim 1 relates to an image forming apparatus connectable to an external apparatus that enciphers and sends digital data including data intended to be printed and a program used by the image forming apparatus, the image forming apparatus

including, *inter alia*: a judging part configured to judge whether or not deciphered data obtained by the deciphering part is valid; a processing part ***configured to update a version of the program used by the image forming apparatus*** based on the deciphered data if the deciphered data is judged as being valid and includes data for updating the version of the program used by the image forming apparatus.

Further, independent Claim 6 recites similar features in the context of image forming apparatus connectable to an external apparatus without the printing part. Independent Claims 11 and 18 recite the same features in the context of an enciphered data processing method. Independent Claims 25 and 29 recite similar features in the context of an enciphered data processing system.

As explained in Applicant's Specification at page 6, lines 5-12, Applicant's invention improves upon background enciphered data processing methods because it can prevent copying of digital data which is distributed via networks, when the digital data is copyrighted and/or accounting process with respect to the digital data distribution is desired or necessary.

Turning now to the applied references, Stefik discloses a trusted rendering system for controlling the distribution and use of digital works. However, Stefik fails to teach a processing part configured to update a version of a program used by the image forming apparatus, as further confirmed by the outstanding Office Action.<sup>1</sup> Stefik indeed explicitly teaches that a system for controlling the distribution and use of ***printed digital works*** is disclosed and that the system is able to add watermarks to printed digital works.<sup>2</sup> A system for adding watermarks to printed digital works, as taught by Stefik, ***is not*** a processing part configured to update a version of the program used by the image forming apparatus, as recited in amended Claim 1.

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<sup>1</sup> See the outstanding Office Action from page 4, last line to page 5, line 2.

<sup>2</sup> See Stefik at column 3, lines 6-39 and in Figure 8.

The outstanding Office Action rejects Applicant's Claims 1, 2, 6, 7, 15, 22, 25-27, 29-31, 35 and 38-39 based on the proposition that Hartrick discloses a similar feature,<sup>3</sup> and that it would have been obvious to modify Stefik by importing this feature from Hartrick to arrive at Applicant's claimed invention. Applicant respectfully submits, however, that Claim 1 is hereby amended to clarify this feature, and that Hartrick fails to disclose the above feature related to a processing part configured to update a version of the program used by the image forming apparatus, as next discussed.

The outstanding Office Action relies on Hartrick's text at column 5, lines 42-63 and on Hartrick's Figures 2, 8A-8B.<sup>4</sup> Hartrick's column 5 suggests that if the user's copying of an electronic book fails before an entire book is downloaded, the downloading can be resumed at a later time. Regarding Hartrick's Figures 8-8A, Hartrick explains that to read a book stored on the storage disk, the user applies a special softcopy book reading program 35,<sup>5</sup> and also teaches that the softcopy book reading program 35 manages the royalty payments.<sup>6</sup> Therefore, reading Hartrick, a person of ordinary skill in the art would understand that downloading missing parts of an electronic book, that will be viewed by a reading program, *is not* a processing part configured to update a version of the program used by the image forming apparatus.

The reference Perlman, relied upon by the outstanding Office Action to form the 35 U.S.C. §103(a) rejection, discloses a system and method for a user to encrypt data in a way so that the data cannot be encrypted after a finite period.<sup>7</sup> However, Perlman is also silent on the processing part configured to update a version of a program used by the image forming apparatus, based on the deciphered data, as claimed in amended independent Claim 1.

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<sup>3</sup> See the outstanding Office Action from page 5, lines 4-6.

<sup>4</sup> See the outstanding Office Action from page 5, line 6.

<sup>5</sup> See Hartrick at column 11, lines 55-60 and in Figures 8-8A.

<sup>6</sup> See Hartrick from column 14, line 51 to column 15, line 51-57 and in Figures 8-8A.

<sup>7</sup> See Perlman in the Abstract.

Accordingly, even assuming that the combination of Stefik, Hartrick and Perlman is proper, the applied references fail to teach or suggest all the elements of Applicant's independent Claims. Accordingly, Applicant respectfully requests reconsideration of the rejection of Claims 1-2, 6-7, 15, 22, 25-27, 29-31, 35 and 38-39.

Independent Claims 6, 11, 18, 25 and 29 recite limitations analogous to the limitations recited in independent Claim 1. Moreover, Claims 6, 11, 18, 25 and 29 have been amended in a manner analogous to the amendment to Claim 1. Accordingly, for the reasons stated above for the patentability of Claim 1, Applicant respectfully submits that the rejections of Claims 6, 11, 18, 25 and 29, and all associated dependent claims, are also believed to be overcome in view of the arguments regarding independent Claim 1.

Further, the reference Chou applied in the context of a 35 USC §103(a) rejection of the dependent claims does not remedy the deficiencies of the references Stefik, Hartrick and/or Perlman, taken individually or in combination, as discussed above. Chou is concerned with a method for protecting distributed software, wherein a profile for an user is used to generate a key unique to the user.<sup>8</sup> However, Chou fails to teach or suggest that a processing part is configured to update a version of the program used by the image forming apparatus, as explained above. Accordingly, Applicant respectfully requests reconsideration of these rejections under 35 U.S.C. §103(a).

In addition, Applicant traverses the Official Notices in the outstanding Office Action by the present amendment. M.P.E.P. §2141.02 requires that the invention as a whole be considered, and Official Notices were taken in the outstanding Office Action and were applied in the context of a 35 U.S.C. §103 rejection.<sup>9</sup> Regardless of whether or not the features noticed in the outstanding Office Actions are well known, M.P.E.P. §2144.03 states that it is never appropriate to rely solely on common knowledge in the art without evidentiary

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<sup>8</sup> See Chou in the Abstract and in Figure 1.

<sup>9</sup> See the outstanding Office Action at page 4 , line 15-17.

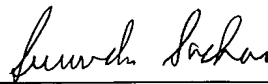
support in the record, as the principal evidence upon which a rejection is based. Accordingly, Applicant traverses the 35 U.S.C. §103 rejections based on the numerous Official Notices taken in the outstanding Office Action for the reason that, without the temporal and structural context by which these features are known to the artisan, it is impossible to conclude that it would have been obvious for one of ordinary skill in the art at the time of the invention to combine those noticed features with the art of record. Indeed, the context by which these features are allegedly known might itself provide reasons to rebut a *prima facie* case of obviousness.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal Allowance. A Notice of Allowance for Claims 1-2, 4-7, 9-36 and 38-39 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicant's undersigned representative at the below listed telephone number.

Respectfully submitted,

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